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September 23, 2014

BY ECF

The Honorable Katherine B. Forrest
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED SEP 24 2014
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Re: United States v. Ross Ulbricht,
14 Cr. 68 (KBF)

Dear Judge Forrest:

This letter is in regard to the Reply papers on behalf of defendant Ross Ulbricht, whom I represent, and that are due today, September 23, 2014. For the reasons set forth below, it is respectfully requested that the due date be adjourned until September 30, 2014. Assistant United States Attorney Serrin Turner has communicated by e-mail that the government does not object to this application.

The reasons for the requested adjournment are as follows:

- (1) this afternoon the government, in response to a discovery demand communicated last week by e-mail, produced certain discovery directly relevant to the substance of the Reply papers, which will include a Declaration from Joshua J. Horowitz, Esq., based on his review of discovery and the Declaration by former Special Agent Christopher Tarbell that accompanied the government's papers in opposition. The discovery provided this afternoon relates directly to Mr. Horowitz's Declaration and the Memo of Law that will digest and discuss that Declaration and its impact on the legal issues presented by Mr. Ulbricht's motion. The complexity of the discovery provided this afternoon and its relevance to the Reply simply does not afford the defense sufficient time to evaluate it, make adjustments to Mr. Horowitz's Declaration, incorporate those changes in the

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Memo of Law, and file it today.¹ However, Mr. Horowitz's preliminary and cursory review of the discovery provided today establishes that it will affect the contents of his Declaration.

In that context, it is very much preferred to prepare and submit both a Declaration from Mr. Horowitz and a Memo of Law that conforms with the current state of discovery, that does not require material amendment once the discovery is reviewed, and potentially sow confusion as to the defense's position, and that does not as a result expend counsel's and the Court's resources unnecessarily;²

- (2) beginning tomorrow evening, and continuing this Thursday and Friday, is the Jewish holiday of Rosh Hashanah, during which I will not be working. Thus, while discovery review and other progress can be made with respect to the Reply, I will likely not be able to have a determinative discussion with Mr. Horowitz, and make any necessary changes to the Memo of Law until after the holiday concludes;
- (3) I am simultaneously preparing for trial in *United States v. Antione Chambers*, 13 Cr. 345 (LGS), which commences Monday, September 29, 2014. That case has this past week also raised some unanticipated legal issues that will be addressed by Monday;³ and
- (4) Lindsay A. Lewis, Esq., an associate in my office and who has been actively involved in the discovery aspect of this case as well as preparation of the Reply

¹ Also, last week the government filed a Supplemental Memorandum of Law in opposition to Mr. Ulbricht's motion, raising an additional issue that we have had to integrate into the Reply.

² An additional logistical issue is that I must rely on Mr. Horowitz's technical expertise in evaluating the discovery. However, I am authoring the Reply Memo of Law and assisting in preparation of his Declaration. Thus, Mr. Horowitz must first review the discovery, then communicate with me with respect to the impact on his Declaration, at which point we will decide on the final contours of his Declaration and how its conclusions are reflected in the Memo of Law.

³ Also, in *Chambers* his two co-defendants have recently pleaded guilty. As a result, Mr. Chambers will be tried alone, thereby increasing my responsibilities that would have been shared among counsel for co-defendants.

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papers, will be out of the office Monday, September 29, 2014, due to long-standing travel plans (in addition to some part of Thursday and Friday this week in observance of Rosh Hashanah). That is why the request is for an adjournment until the following day, Tuesday, September 30, 2014 (as I will be engaged in trial all day Monday, September 29, 2014).

As a result of all of these factors, it is also respectfully requested that the due date for the motions challenging the Superseding Indictment be extended from this Friday, September 26, 2014, until next Thursday, October 2, 2014. AUSA Turner has informed us that the government consents to that request as well.⁴

Accordingly, it is respectfully requested that the due date for Mr. Ulbricht's Reply be extended until Tuesday, September 30, 2014 and the due date for the motions challenging the Superseding Indictment be extended until next Thursday, October 2, 2014. As noted above, the government does not object to this application.

Respectfully submitted,



Joshua L. Dratel

JLD/lal

cc: Serrin Turner
Timothy T. Howard
Assistant United States Attorneys

So ordered /
Application granted.

K B. Forrest
USDJ

9/24/14

⁴ Those motions will incorporate the applicable elements of Mr. Ulbricht's initial motion to dismiss the Indictment, as well as include a brief additional point not pertinent to the changes in the Superseding Indictment. The demand for a Bill of Particulars will also be updated with respect to the new charges.